THE HONOURABLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

AND

THE HONOURABLE SRI JUSTICE

R.SUBHASH REDDY

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WRIT APPEAL No. 879 OF 2005

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Dated 25th October, 2005

Between:

K.R.R.Mohan Rao, S/o Krishna Murthy

… Appellant

And

Dwarampudi Dhani Reddy and others.

… Respondents.

ORAL JUDGMENT:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

Counter is not filed although number of opportunities have been given. On 27.9.2005, we gave another opportunity to file a counter on payment of costs of RS.3,000/-. Neither the costs have been paid nor the counter is filed. The learned Senior Counsel who appeared last time is also not present.

Writ Petition was filed before this Court seeking a direction against the respondents that they should not interfere with the civil disputes between the writ petitioner and Respondent No.5. A direction was also sought that Respondent No.1 should

register the complaint and investigate the same in accordance with law. The learned Single Judge while disposing of the matter found that 3rd respondent, who was a Police Officer had refused to receive the complaints sent by the complainant to him through registered post. When this endorsement was shown to the court, the learned Single Judge directed the respondent to be present before the Court. The learned Single Judge noted with concern that a person who is supposed to receive the complaints could not have refused to receive such complaints and it was a serious offence. The learned Single Judge further noted that as a Police Officer, the respondent owed responsibility to the public and as such, the said Police Officer had failed to perform his duties, which he was otherwise required to do under law and such tendencies must be deprecated. So far so good, and, there cannot be any quarrel with the observations of the learned Single Judge that the authorities should perform their statutory duties and if there is any lapse in performing those duties, there must be remedies also. But, the next part of the order has been objected to in this appeal. By this order, the learned Single Judge fined the appellant-4th respondent, Mr.K.R.R.Mohan Rao, with Rs.25,000/-. He was asked to deposit to the credit of a hospital, and, in default, it was stated that said Mohan Rao shall be imprisoned for a period of 15 days.

The learned counsel for the appellant submits that no authority, civil or judicial, has any power to convict a person and sentence him, unless it is provided by law. Article 21 guarantees right to personal liberty and no one can be deprived of such liberty, except, through due process of law. Even if the Court had the power to convict a person and order his imprisonment or fine by way of punishment, that had to be done through a trial. Therefore, we agree with the learned counsel for the appellant that the learned Single Judge did not have any jurisdiction to fine a person in the proceedings which were before him and also award sentence to him if he fails in depositing the fine of Rs.25,000/-. For these reasons, we allow the appeal and set aside the order of the learned Single Judge. No costs.

(BILAL NAZKI, ACJ.)

25.10.2005

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(R.SUBHASH REDDY, J.)

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